

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**RAYMOND J. KACZUR, DEBRA J.
KACZUR, and FARMERS STATE
BANK OF HOFFMAN,**

Defendants.

No. 09-0409-DRH

ORDER

HERNDON, Chief Judge:

Now before the Court is the Government's request for entry of default (Doc. 9). Because the record before the Court does not identify the date and the method of service of the AMENDED complaint, herein, the Clerk of the Court cannot properly declare the Kaczur Defendants in default and must deny the Rule 55(a) entry of default as to them. The Government may file a new motion for entry of default which explains (a) how it served the amended complaint; (b) when it served the amended complaint; and (c) why such service comports with the specific requirements of Rule 4 or Rule 5 of the Federal Rules of Civil Procedure – which require different methods of service depending on whether the amended complaint “asserts a new claim for relief.” Thus, the Court **DENIES** at this time the request as

to the Kaczur Defendants. The Clerk of the Court may enter the entry of default as to Farmers State Bank of Hoffman.

IT IS SO ORDERED.

Signed this 2nd day of October, 2009.

/s/ David R. Herndon

**Chief Judge
United States District Court**